

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION

This document relates to:

*Masiowski v. AmerisourceBergen Drug
Corporation, et al.*, 1:18-op-45985-DAP

MDL No. 2804

Case No. 1:17-md-2804

JUDGE DAN AARON POLSTER

**MANUFACTURER DEFENDANTS' JOINDER IN
DISTRIBUTOR DEFENDANTS' OPPOSITION TO PLAINTIFF
MICHAEL MASIOWSKI'S CORRECTED MOTION FOR LEAVE TO AMEND**

Manufacturer Defendants¹ hereby join the Distributor Defendants' Opposition to Plaintiff Michael Masiowski's Corrected Motion for Leave to Amend. (Dkt. 5901.) (the "Opposition"). For the reasons set forth in the Opposition, Plaintiff Masiowski's Motion for Leave to Amend, (Dkt. 5582; Dkt. 33, Case No. 1:18-op-45985), should be denied.

This Court set a final deadline for motions seeking leave to amend complaints of July 29, 2024. (Dkt. 5522.) Masiowski requested a 60-day extension to that deadline, which the Court denied. (Dkt. 5537.) On July 29, 2024, Masiowski proceeded to file his motion for leave to amend his complaint, including a proposed amended complaint, on the case-specific docket. (Dkt. 33, Case No. 1:18-op-45985.) Over a week after the July 29 deadline, on August 8, 2024, Masiowski filed a "corrected" amended complaint on the MDL docket. (Dkt. 5582.) In the motion for leave,

¹ Manufacturer Defendants include Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc., Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Actavis Pharma, Inc., Actavis LLC, Watson Laboratories, Inc., and Allergan Finance, LLC f/k/a Actavis, Inc. f/k/a Watson Pharmaceuticals, Inc.

Masiowski represented that he sought leave to “amend his complaint to add the below detailed defendants for good cause.” (Dkt. 33 at 1, Case No. 1:18-op-45985; *see also* Dkt. 5582 at 1-2 (similar)). The amended complaint, however, contained new allegations relating to Manufacturer Defendants, who were named in the original complaint. (*See, e.g.*, Dkt. 5582-1 ¶¶ 28, 57, 65–73, 86(c), 145–47, 151–52, 192–94, 287–89, 297, 319, 338–49, 356–61, 365, 368–79, 392, 419–22, 427–29, 452, 575–622, 669–83, 760–61.) Masiowski’s motion for leave does not mention the allegations against Manufacturer Defendants. (*See generally* Dkt. 5582; Dkt. 33, Case No. 1:18-op-45985.)

On December 19, 2024, almost five months after the deadline for filing such motions, Masiowski filed a new document captioned “Notice of Filing Amended Exhibit A In Support of Plaintiff’s Motion for Leave to Amend.” (Dkt. 5827.) Masiowski’s “Amended Exhibit A” includes over 100 pages of new matter, including a new co-Plaintiff, Simon Clark. (*See generally* Dkt. 5827-1.) Again, Masiowski included new allegations against Manufacturer Defendants. (*See, e.g.*, Dkt. 5827-1 ¶¶ 183–87 at pp. 81–82, ¶¶ 189–90 at pp. 82–83, ¶¶ 192–194 at pp. 83–84, ¶ 10 at p. 87, ¶¶ 18–19 at pp. 94–95, ¶¶ 43–49 at pp. 102–05, ¶¶ 75–83 at pp. 112–16, 86–87 at pp. 117, ¶¶ 101–05 at pp. 120–21, ¶¶ 110–12 at pp. 123–24, ¶¶ 118–29 at pp. 125–31, ¶ 145 at p. 137, ¶ 229 at p. 164, ¶ 232 at p. 165, ¶¶ 463–64 at pp. 246–47, ¶¶ 490–506 at pp. 255–62, ¶ 523 at p. 267, ¶¶ 605–93 at pp. 293–312, ¶¶ 760–61 at pp. 343–45.) At no point has Masiowski attempted to justify his decision to file “Notice of Filing Amended Exhibit A.”

Manufacturer Defendants hereby join, adopt, and incorporate by reference the legal arguments made and authorities cited by the Distributor Defendants, (Dkt. 5901), and respectfully request that the Court deny Plaintiff Masiowski’s Motion for Leave to Amend, (Dkt. 5582; Dkt. 33, Case No. 1:18-op-45985).

Dated: January 17, 2025

Respectfully submitted,

/s/ Charles C. Lifland

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CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2025, a copy of the foregoing **JOINDER IN DISTRIBUTOR DEFENDANTS' OPPOSITION TO PLAINTIFF MICHAEL MASIOWSKI'S CORRECTED MOTION FOR LEAVE TO AMEND** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated: January 17, 2025

Respectfully submitted,

/s/ Charles C. Lifland

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